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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,067	07/09/2003	Tetsuya Yano	FUJO 20.501	9952
26304 7590 02/27/2007 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			EXAMINER FOUD, HICHAM B	
			ART UNIT 2616	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/27/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/616,067	<b>Applicant(s)</b> YANO ET AL.	
	<b>Examiner</b> Hicham B. Foud	<b>Art Unit</b> 2616 <del>2616</del> <del>2617</del>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07/09/2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/17/2003, 06/09/2006</u> | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Objections*

2. Claims 1-12 are objected to because of the following informalities:

For claim 1 line 15-17, the terms "an error rate" and "a reference signal-to-interference power ratio" seem to refer back to "an error rate" and "a reference signal-to-interference power ratio" respectively mentioned before. If this is true, the applicant is suggested to change those terms to --the error rate-- and --the reference signal-to-interference power ratio--respectively. Similar problems occur in claim 12 lines 14 -17, claim 10 lines 10 and 13 and claim 11 lines 20-23.

For claim 11 line 1, the term "a target signal error rate" seems to refer back to "a target signal error rate" mentioned before in the independent claim 1. If this is true, the applicant is suggested to change the term to --the target signal error rate --.

Claims 2-9 are objected to because they are dependent on the objected claim.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 3, the term "the basis" has no antecedent basis. Similar problem occurs in claim 12 line 8 and claim 13 line 4.

In claim 3 line 14, the term "the number of multiplexed data" has no antecedent basis. Similar problem occurs in claim 4 line 3.

In claim 5 line 14, 15, 17 and 18, the terms "the amount of multiplexed data" and "the data number" respectively have no antecedent basis. Similar problems occur in claims 6, 7, 8 and 9.

In claim 11 line 25, the phrase "excluding at the most one item of the items" is vague and indefinite and it is not known the metes and the bounds of the claimed invention. Also, the term "the items" has no antecedent basis.

Claims 2 and 10 are rejected because they depend on the rejected claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by Hiroto et al (JP-2000-196566).

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For claim 1, Hiroto et al discloses an outer-loop power control device in which a reference signal-to-interference power ratio, which is the basis of transmission power control by a communications environment, is variable, comprising: a signal-to-interference power ratio measurement unit measuring a signal-to-interference power ratio of a receiving signal (see the figure, box 10); an error rate measurement unit measuring an error rate of receiving data (see the figure, box 14); a reference signal-to-interference power ratio modification unit setting an observation time period of an error rate/number of target observation blocks of an error rate, a unit increment of a reference signal-to-interference power ratio, a unit decrement of a reference signal-to-interference power ratio and a target signal error rate in such a way to satisfy a prescribed relation equation (see the figure, box 14); and modifying the reference signal-to-interference power ratio, based on the measured error rate (see the figure, box 16); and a command generation unit generating a command for transmission power control by comparing the modified reference signal-to-interference power ratio with the measured interference power ratio (see the figure, box 18).

Claim 12 is rejected for the same reasons as claim 1.

***Allowable Subject Matter***

5. Claims 2-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and the objection(s), set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
6. Claim 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and the objection(s), set forth in this Office action.

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For claim 13, the prior art fails to teach a limitation "a reference signal-to-interference power ratio modification unit varying the reference signal-to-interference power ratio based on measurement result of an error rate in a measurement time period of the error rate and changing the reference signal-to-interference power ratio to a large value without waiting for an end of the measurement time period when an error of a signal is detected in the measurement time period" in a combination with the other claimed limitations.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hwang (6,633,553), Vanghi (6,711,150), Agrawal et al (6,748,234), Lundby (6,529,482), Lee (6,781,973), Cheng et al (6,791,954), Almgren (6,807,164), Sipila (6,816,717) and Cordier et al (6,963,553) are cited to show a system that is considered pertinent to the claimed invention.

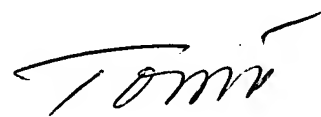
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hicham B. Foud whose telephone number is 571-270-1463. The examiner can normally be reached on Monday - Thursday 10-3 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ton Dang can be reached on 571-272-3171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hicham Foud



DANG T. TON  
SUPERVISORY PATENT EXAMINER